

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ENVIRONMENTAL COMMITTEE OF
THE FLORIDA ELECTRIC POWER
COORDINATING GROUP, et al.,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

Case No. 15-1239 (and
consolidated cases)

JOINT MOTION TO CONTINUE ABEYANCE

Each of the separate aligned groups of petitioners and intervenors in these consolidated petitions for review, through their respective liaison counsel, and respondent Environmental Protection Agency (“EPA”), file this joint motion to continue these consolidated cases in abeyance. These cases, which challenge EPA’s “SSM Action” under the Clean Air Act, are being held in abeyance pending further order of the court pursuant to the Court’s April 24, 2017 Order (Doc. #1672430). As reported in EPA’s January 8, 2020 status report (Doc. #1823217), EPA Region 6 recently reached a final decision to withdraw the State Implementation Plan Call (“SIP Call”) issued to Texas in 2015. Texas was one of

the 36 states whose SIPs were called as a part of the SSM Action. This withdrawal action was recently published in the Federal Register, at 85 Fed. Reg. 7232 (Feb. 7, 2020). Also, EPA Region 4 proposed to withdraw the SIP Call issued to North Carolina, 84 Fed. Reg. 26,031 (June 5, 2019), as part of the SSM Action, and EPA Region 4 is reviewing the comments on that proposed action. EPA further explained that it is continuing its review of the SSM Action. Status Report (Doc. #1823217).

The parties jointly request that these cases remain in abeyance status.¹

By this joint motion, no party waives any rights it may have to file a motion to govern in the future, and no party waives its rights to object to any such future motion.

Because the parties do not request that the status quo abeyance in this case be altered at this time, no action by the Court is required. Accordingly, absent a contrary order by the Court, EPA expects to file the next required status report in accordance with the existing filing date, that is, no later than April 7, 2020.

¹ Environmental Intervenors posit that EPA's final action withdrawing the SIP Call for Texas is an action "with respect to the SSM Action" under the Court's Order (Doc. #1672430), triggering the requirement to file a motion to govern. The other parties do not agree that the requirement to file a motion to govern has been triggered at this juncture, but out of an abundance of caution all parties file this joint motion.

Respectfully submitted,

/s/ David Kaplan

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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2020, the foregoing filing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of said filing to the attorneys of record, who are required to have registered with the Court's CM/ECF system.

/s/ David Kaplan

CERTIFICATE OF COMPLIANCE WITH WORD LIMITATIONS

Pursuant to Fed. R. App. P. 32(g)(1), I hereby certify that the foregoing pleading, filed on February 7, 2020, contains 375 words as counted by the word count feature of Microsoft Word. This is in compliance with Fed. R. App. P. 27(d)(2).

/s/ David Kaplan